

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

GRISSELLE RAMOS, on behalf of herself and all others similarly situated)	
)	
Plaintiff,)	Civil Action No. 08-cv-2703
)	
v.)	Judge Lefkow
)	
PLAYTEX PRODUCTS, INC., RC2)	Magistrate Judge Schenkier
CORPORATION, LEARNING CURVE)	
BRANDS, INC., and MEDELA, INC.)	
)	
Defendants.)	
)	
)	
DINA SCALIA, JENNIFER SUAREZ, and)	Case No. 08-cv-2828
MARISSA LOPEZ, on behalf of themselves)	
and all others similarly situated)	
)	Judge Lefkow
Plaintiffs,)	
)	Magistrate Judge Schenkier
v.)	
)	
PLAYTEX PRODUCTS, INC., RC2)	
CORPORATION, LEARNING CURVE)	
BRANDS, INC., and MEDELA, INC.,)	
)	
Defendants.)	
)	

**DEFENDANT MEDELA INC.'S RESPONSE TO
DEFENDANT LEARNING CURVE BRANDS, INC.'S MOTION
FOR REASSIGNMENT AND CONSOLIDATION OF RELATED CASE**

Defendant Medela Inc. ("Medela") by and through its attorneys, Winston & Strawn LLP, hereby responds to Defendant Learning Curve Brands, Inc.'s Motion for Reassignment and Consolidation of Related Case, which was filed on June 26, 2008:

1. By order dated June 10, 2008, this Court determined that the nearly-identical cases captioned above -- the “Ramos Action” and the “Scalia Action” -- were “related” for purposes of Federal Rule of Civil Procedure 41(a) and Local Rule 40.4, and that the conditions for reassignment set forth in Local Rule 40.4(b) were satisfied. The Court, therefore, granted Plaintiffs’ motion for reassignment and consolidation of the Scalia Action with the Ramos Action. The Executive Committee entered an order on June 11, 2008 that officially reassigned the Scalia Action to this Court.

2. Medela agrees that on or about June 11, 2008, a new plaintiff filed a Class Action Complaint that is nearly identical to the complaints filed in the above-captioned cases. The new case, styled *Smith v. Playtex Products, Inc.*, Case No. 08-cv-3352 (N.D. Ill.) (the “Smith Action”) was assigned to the Honorable Virginia Kendall.

3. Medela does not contest the instant motion, but Medela states that there are many different and individualized factual and legal questions that will be at issue in this litigation. For example, key issues that underpin each claim in these cases, such as whether there is exposure to lead from a particular product, causation, and damage/injury will be different for each defendant (and for each plaintiff) because each defendant manufactures a different product, has different marketing, and has different purchasers with different children. For that reason (and others), Medela filed a motion to sever the claims against Medela from the claims against the other Defendants in the Ramos Action (*see* Dkt. #26 and #28), and Medela anticipates filing virtually identical motions in the Scalia Action and Smith Action in due course.¹

¹ Even if the claims against Medela are severed, numerous individualized factual and legal issues will remain that preclude class certification in these cases.

4. Thus, while Medela does not contest the reassignment of the Smith Action to this Court, Medela maintains that the claims against Medela should be severed from the claims against the other defendants. Further, Medela respectfully reserves the right to assert and argue the existence of individualized issues in this litigation, including but not limited to making such assertions and arguments in the context of a motion to decertify or in opposition to a motion for class certification.

Dated: June 27, 2008

Respectfully submitted,

MEDELA INC.

By: /s/ Susan M. Benton
One of Its Attorneys

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*Attorneys for Defendant,
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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of June 2008, I caused a copy of the foregoing document, DEFENDANT MEDELA INC.'S RESPONSE TO DEFENDANT LEARNING CURVE BRANDS, INC.'S MOTION FOR REASSIGNMENT AND CONSOLIDATION OF RELATED CASE, to be filed electronically. Notice of this filing will be sent to the attorneys listed immediately below by operation of the Court's ECF system, which notice shall constitute service pursuant to Local Rule 5.9. Parties may access this filing through the Court's system.

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I further certify that on this 27th day of June 2008, I caused a copy of the foregoing document, DEFENDANT MEDELA INC.'S RESPONSE TO DEFENDANT LEARNING CURVE BRANDS, INC.'S MOTION FOR REASSIGNMENT AND CONSOLIDATION OF RELATED CASE, to be served on the following attorneys, who are counsel for plaintiff in the Smith Action, by first class U.S. mail, with courtesy copies provided by e-mail:

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